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## Collective complaint 18/2003 under the Revised Social Charter against Ireland

Written question No. 492 to the Committee of Ministers  
presented by Mrs Bargholtz

In a decision first reported to the Committee of Ministers in January 2005 and made public in May 2005, the European Committee of Social Rights concluded by 11 votes to 2, in relation to Collective Complaint no. 18/2003 against Ireland that there was a violation of Article 17 of the Revised Charter.

The Committee noted that its case-law is to the effect that the prohibition of all forms of violence must have a legislative basis. The prohibition must cover all forms of violence regardless of where it occurs or of the identity of the alleged perpetrator. Furthermore the sanctions available must be adequate, dissuasive and proportionate.

The Committee noted that corporal punishment of children within the home is permitted in Ireland by virtue of the existence of the common law defence of reasonable chastisement. Although the criminal law will protect children from very serious violence within the home, it remains the fact that certain forms of violence are permitted. The Committee therefore held that the situation is in violation of Article 17 of the Revised Charter.

The Committee also considered the situation of children in foster care, residential care and certain childminding settings. It took note of the fact that there exist guidelines, standards, registration schemes and inspections. However, it noted that these do not have the force of law and do not alter the existence of the common law defence which remains *prima facie* applicable. It therefore found that children in these situations are not adequately protected against corporal punishment and that the situation therefore constitutes a breach of Article 17 of the Revised Charter.

Mrs Bargholtz

To ask the Committee of Ministers,

What action is the Committee of Ministers taking to ensure that children in Ireland are effectively protected from all corporal punishment in the home, in foster-care, all residential care and all day-care settings, as required by the Revised Social Charter?

In view of the fact that this decision concerns the basic protection of the rights of children, whom the human rights mechanisms of the Council of Europe have recognized as particularly vulnerable, what action does the Committee of Ministers propose to take to expedite action?

*Signed*<sup>1</sup>:

BARGHOLTZ, Helena, Sweden, ALDE

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<sup>1</sup> SOC: Socialist Group  
EPP/CD: Group of the European People's Party  
ALDE: Alliance of Liberals and Democrats for Europe  
EDG: European Democratic Group  
UEL: Group of the Unified European Left  
NR: not registered in a group